

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

|                                 |   |                  |
|---------------------------------|---|------------------|
| JUDICIAL WATCH, INC.            | ) |                  |
| 425 Third Street, SW, Suite 800 | ) |                  |
| Washington, D.C. 20024,         | ) |                  |
|                                 | ) |                  |
| Plaintiff,                      | ) | Civil Action No. |
|                                 | ) |                  |
| v.                              | ) |                  |
|                                 | ) |                  |
| U.S. DEPARTMENT OF JUSTICE,     | ) |                  |
| 950 Pennsylvania Avenue, NW     | ) |                  |
| Washington, DC 20530-0001       | ) |                  |
|                                 | ) |                  |
| Defendant.                      | ) |                  |
| _____                           | ) |                  |

**COMPLAINT**

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of Justice to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

**PARTIES**

3. Plaintiff Judicial Watch, Inc. (“Plaintiff”) is a non-profit, educational foundation organized under the laws of the District of Columbia and having its principal place of business at 425 Third Street, SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote integrity, transparency, and accountability in government and fidelity to the rule of law. In furtherance of

its public interest mission, Plaintiff regularly requests access to the public records of federal, state, and local government agencies, entities, and offices, and disseminates its findings to the public.

4. Defendant is an agency of the U.S. Government and is headquartered at 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

### **STATEMENT OF FACTS**

5. On February 6, 2012, Plaintiff submitted a FOIA request to Defendant, by facsimile and certified mail, seeking access to the following public records:

- i. Any and all records regarding, concerning or related to the Civil Rights Division's denial of pre-clearance of Section 5 of South Carolina Act R54 (A27 H3003) pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973c.;
- ii. Any and all records of communication regarding, concerning or related to South Carolina Act R54 (A27 H3003) between any official or employee of the Civil Rights Division and any other individual or entity.

6. Defendant acknowledged receipt of Plaintiff's FOIA request on February 16, 2012 and assigned the request File No. 2012-02506-F.

7. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant was required to determine whether to comply with Plaintiff's request within twenty (20) working days after receipt of the request and to notify Plaintiff immediately of its determination, the reasons therefor, and the right to appeal any adverse determination. Because Plaintiff sent its request to the component of Defendant designated by Defendant to receive FOIA requests, pursuant to 5 U.S.C. § 552(a)(6)(A) this twenty (20) working day time period did not commence until ten (10) working days after Defendant's receipt of the request on February 15, 2012. Accordingly, Defendant's determination was due by March 29, 2012 at the latest.

8. As of the date of this Complaint, Defendant has failed to: (i) determine whether to comply with Plaintiff's requests; (ii) notify Plaintiff of any such determination or the reasons therefor; (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

9. Because Defendant has failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its requests, pursuant to 5 U.S.C. § 552(a)(6)(C).

**COUNT 1**  
**(Violation of FOIA, 5 U.S.C. § 552)**

10. Plaintiff realleges paragraphs 1 through 9 as if fully stated herein.

11. Defendant is unlawfully withholding public records requested by Plaintiff pursuant to 5 U.S.C. § 552.

12. Plaintiff is being irreparably harmed by reason of Defendant's unlawful withholding of the requested public records, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform their conduct to the requirements of the law.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct a search for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to

5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: June 6, 2012

Respectfully submitted,

JUDICIAL WATCH, INC.

/s/ Paul J. Orfanedes  
D.C. Bar No. 429716  
425 Third Street, S.W., Suite 800  
Washington, DC 20024  
(202) 646-5172

*Attorneys for Plaintiff*